

# **EXHIBIT 10**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
No. 10-cv-06950 (AT) (JCF)

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H. CRISTINA CHEN-OSTER; :  
LISA PARISI and SHANNA ORLICH, : Deposition of:  
Plaintiffs, : DAVID LANDMAN  
-against- :  
GOLDMAN, SACHS & CO. and :  
THE GOLDMAN SACHS GROUP, INC., :  
Defendants. :  
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TRANSCRIPT of testimony as taken by  
and before MONIQUE VOUTHOURIS, a Certified Court  
Reporter, RPR, CRR and Notary Public of the States  
of New Jersey and New York, at the offices of  
OUTTEN & GOLDEN, LLP, 3 Park Avenue, New York,  
New York, on Thursday, September 5, 2013,  
commencing at 9:45 a.m.

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16	ALSO PRESENT:
17	REGINA S. PALUMBO, ESQ.
18	Goldman Sachs
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**DECLARATION OF THEODORE O. ROGERS, JR.  
IN OPPOSITION TO PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION**

**EXHIBIT 10 - TRANSCRIPT OF THE DEPOSITION OF DAVID LANDMAN  
DATED SEPTEMBER 5, 2013  
(PAGES 6-141)**

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<p>1 REDACTED FILED UNDER SEAL</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 of solicited and unsolicited reviews." Do you see</p> <p>2 that?</p> <p>3 A. I do.</p> <p>4 Q. It says: "If there are fewer three</p> <p>5 solicited reviews, consider seeking out additional</p> <p>6 feedback informally." What does that mean?</p> <p>7 A. That if there are fewer than three</p> <p>8 solicited reviews, that the manager should consider</p> <p>9 seeking out additional feedback.</p> <p>10 Q. Why should the feedback be in the form</p> <p>11 of an informal versus formal feedback?</p> <p>12 A. My interpretation of this statement is</p> <p>13 in -- this would be a very unusual circumstance where</p> <p>14 the number of solicitor reviews actually submitted,</p> <p>15 and, once again, we have 98 or 99 percent of reviews</p> <p>16 submitted, is less than three, that there may be not</p> <p>17 enough of a scope of 360 degree feedback and the</p> <p>18 manager could potentially supplement.</p> <p>19 Q. Do you know whether the informal</p> <p>20 supplementation would be recorded through the FRS</p> <p>21 system?</p> <p>22 A. Well, I can't speak to -- I have never</p> <p>23 been aware of an instance like this. But if a manager</p> <p>24 did have informal discussions to gather feedback, one</p> <p>25 would expect them to incorporate that feedback into</p>
<p>[Page 142]</p> <p>1 REDACTED FILED UNDER SEAL</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 their summary and delivery of the performance review,</p> <p>2 or the 360 review, the -- their determination of their</p> <p>3 manager quartile and so on.</p> <p>4 Q. In the next sentence it says be careful</p> <p>5 not to use a limited number of data points to</p> <p>6 determine one's year end performance. Do you see that</p> <p>7 reference?</p> <p>8 A. I do.</p> <p>9 Q. What is the point of that?</p> <p>10 A. Well, this appears to be an expansion</p> <p>11 of the previous comment of fewer than three solicited</p> <p>12 reviewers. But the general theme is the point of the</p> <p>13 360 review is to gather feedback from others, and this</p> <p>14 is additional information that if a manager thinks</p> <p>15 there is not enough feedback, they could collect</p> <p>16 additional feedback informally.</p> <p>17 Q. On the following page, it's 119431,</p> <p>18 it's two pages later, there is nine criteria listed.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And this is for the summer 2007 review</p> <p>22 process. Again, are these the nine criteria generally</p> <p>23 used for the FRS system for the review of employees?</p> <p>24 MS. BROWN: Objection; asked and</p> <p>25 answered.</p> <p>[Page 143]</p> <p>[Page 144]</p> <p>[Page 145]</p>

1       A. For this particular year, and that is  
 2 in reference to in Section C the adjusted nine item  
 3 average comparison, in that particular year that  
 4 average of nine items included those particular  
 5 criteria.

6       Q. So is it the case that the criteria for  
 7 FRS review may change from year to year?

8            MS. BROWN: Object to the form;  
 9 misstates the testimony.

10      Q. Do you know whether that's true?

11      A. It is the case that we frequently  
 12 review our 360 reviews, most recently in our 2010  
 13 validation study, and do make adjustments to the  
 14 categories, although the themes generally remain  
 15 consistent in the way that those categories are  
 16 broadly defined for the businesses to interpret and  
 17 apply in their own context.

18      Q. Specific to this document to the summer  
 19 of 2007, are there any performance criteria that are  
 20 not included here that relate to employee performance?

21           MS. BROWN: When you say "here," you're  
 22 referring to --

23      Q. The nine criteria.

24      A. So if you look at page 119433, there  
 25 are 10 items listed there. In this particular example

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1 there is -- there is one additional item that is not  
 2 included in those -- that nine-item average.

3       Q. I see. Let me try it a different way.  
 4           The 10 that are listed on 119433, is  
 5 there any other major aspect of performance that is  
 6 not reflected in these review criteria?

7           MS. BROWN: Again, I'm going to object  
 8 to the form; it's a fact not in evidence.

9       A. These are the criteria, in this  
 10 particular example of these 10 items, these are the  
 11 criteria that we ask others to provide feedback on,  
 12 which is one perspective of a much more expansive view  
 13 of somebody's performance.

14           MS. PALUMBO: Adam, I know we're on a  
 15 document, but we need to take a break. Is now okay?

16           MR. KLEIN: Yes, that's fine.  
 17           (Recess 2:24 p.m.- 2:48 p.m.).

18           MS. GREENE: So I'm just going to read  
 19 into the record what the email from Anne Shaver on  
 20 June 20th, copying Kelly and Barbara and me, and it  
 21 says a number of things, but it says: "I want to make  
 22 clear that the 30(b)(6) deposition on performance  
 23 evaluation will include both the 360 process and  
 24 manager quartiling. Our amended deposition notice so  
 25 stated, as did my June 18, 2013 email to you and

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**DECLARATION OF THEODORE O. ROGERS, JR.  
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**EXHIBIT 10 - TRANSCRIPT OF THE DEPOSITION OF DAVID LANDMAN  
DATED SEPTEMBER 5, 2013  
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